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Attorneys for Plaintiff STEPHEN A. SMITH, as Special  
Administrator of the ESTATE OF SHARLEEN G.  
ROBSON (DECEASED) and as Special  
Administrator of the ESTATE OF ROBERT W.  
ROBSON (DECEASED)

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

STEPHEN A. SMITH, as Special  
Administrator of the ESTATE OF  
SHARLEEN G. ROBSON  
(DECEASED), and as Special  
Administrator of the ESTATE OF  
ROBERT W. ROBSON (DECEASED),

Plaintiff,

v.

UNITED STATES OF AMERICA, the  
DEPARTMENT OF TREASURY by  
its agency, the INTERNAL REVENUE  
SERVICE,

Defendants.

CASE No.

**COMPLAINT FOR REFUND OF  
TAX**

**DEMAND FOR JURY TRIAL**

Plaintiff, STEPHEN A. SMITH (aka Steve A. Smith), as Special  
Administrator of the ESTATE OF SHARLEEN G. ROBSON (DECEASED) and as  
Special Administrator of the ESTATE OF ROBERT W. ROBSON (DECEASED),  
(hereinafter collectively referred to as the "Plaintiff Stephen A. Smith"), hereby files  
this Complaint for Refund of Tax and alleges as follows:

## I. JURISDICTION AND VENUE

1  
2           1. This is an action arising under the internal revenue laws of the  
3 United States for the recovery of Federal income taxes paid by Robert W. Robson  
4 (Deceased 09/26/2015) and Sharleen G. Robson (Deceased 02/19/2019),  
5 (hereinafter sometimes collectively referred to as the "Taxpayers"), for the taxable  
6 year ended December 31, 2015.

7           2. Plaintiff Stephen A. Smith is a citizen of the United States and  
8 resides at 14648 Morgan Canyon Road, Prather, California 93651. Plaintiff  
9 Stephen A. Smith is the Special Administrator of the Estate of Sharleen G. Robson  
10 (Deceased), appointed under letters of administration issued by the Probate Division  
11 of the Superior Court of the State of California, County of Merced, on August 15,  
12 2022. A true and correct copy of such letters of special administration, certified by  
13 the Clerk of the Superior Court of the State of California, County of Merced, is  
14 attached hereto as Exhibit A and incorporated by this reference as though fully set  
15 forth herein. Plaintiff Stephen A. Smith is also the Special Administrator of the  
16 Estate of Robert W. Robson (Deceased), appointed under letters of special  
17 administration issued by the Probate Division of the Superior Court of the State of  
18 California, County of Merced, on August 15, 2022. A true and correct copy of such  
19 letters of administration, certified by the Clerk of the Superior Court of the State of  
20 California, County of Merced, is attached hereto as Exhibit B and incorporated by  
21 this reference as though fully set forth herein.

22           3. Defendants are the United States of America, its Department of  
23 Treasury, and its agency, the Internal Revenue Service (hereinafter collectively  
24 referred to as the "Defendants").

25           4. The District Court for the Eastern District of California has  
26 jurisdiction pursuant to 26 U.S.C. §§ 7402(a) and 7422, and 28 U.S.C. § 1346(a)(1).

27           5. On or about February 29, 2016, Sharleen G. Robson timely e-filed a  
28 joint U.S. Individual Income Tax Return (Form 1040) for Robert W. Robson

1 (Deceased 09/26/2015) and Sharleen G. Robson for the taxable year ended  
2 December 31, 2015, (hereinafter referred to as the "Original 2015 Form 1040") with  
3 Defendant Internal Revenue Service and paid \$1,167,324.00, the Federal income tax  
4 for such taxable year shown as due on the Original 2015 Form 1040, to Defendant  
5 Internal Revenue Service.

6 6. On or about August 16, 2019, Plaintiff Stephen A. Smith timely  
7 filed with Defendant Internal Revenue Service:

8 (i) an Amended U.S. Individual Income Tax Return (Form  
9 1040X) for the Taxpayers for the taxable year ended December 31, 2015,  
10 (hereinafter referred to as the "2015 Form 1040X"), together with a copy of  
11 an As Amended 2015 U.S. Individual Federal Income Tax Return (Form  
12 1040) attached thereto (hereinafter individually referred to as the "As  
13 Amended 2015 Form 1040" and, collectively with the 2015 Form 1040X, as  
14 the "2015 Form 1040X/Claim for Refund"), claiming an overpayment of  
15 Federal income tax of \$283,347.00 for the taxable year ended December 31,  
16 2015, pursuant to 26 U.S.C. §§ 6402(a), 6511(a), and 6511(d)(2)(A) and  
17 Treasury Regulations §§ 301.6402-1, 301.6402-2, and 301.6402-3(a)(2), a  
18 copy of which is attached hereto as Exhibit C (redacted pursuant to Fed. R.  
19 Civ. P. 5.2(a); Eastern District of California Local Rule 140(a)), and

20 (ii) a Statement of Person Claiming Refund Due a Deceased  
21 Person (Form 1310) for Robert W. Robson (as the Decedent) for the taxable  
22 year ended December 31, 2015, (hereinafter referred to as the "2015 Form  
23 1310"), a copy of which is attached hereto as Exhibit D (redacted pursuant to  
24 Fed. R. Civ. P. 5.2(a); Eastern District of California Local Rule 140(a)) and  
25 incorporated by this reference as though fully set forth herein.

26 Each and every statement contained in the 2015 Form 1040X/Claim for Refund is  
27 incorporated by this reference as though fully set forth herein.

28 7. On or after August 17, 2020, Defendant Internal Revenue Service

1 sent by certified mail a LTR 105C to Robert Decd & Sharleen Decd Robson, c/o  
2 Steve A Smith TTEE, 2509 W Shaw Ave, Fresno, CA 93711, that disallowed the  
3 Taxpayers' "claim for credit [sic]" in the amount of \$63,440.00 [sic] for the taxable  
4 year ended December 31, 2015, stating "[w]e can't allow your claim for the  
5 \$63,440.00 farm loss reported on line 18 of your amended Form 1040" for the  
6 taxable year ended December 31, 2015, apparently as set forth in the As Amended  
7 2015 Form 1040, (hereinafter referred to as the "First Notice of Claim  
8 Disallowance"), a copy of which is attached hereto as Exhibit E (redacted pursuant  
9 to Fed. R. Civ. P. 5.2(a); Eastern District of California Local Rule 140(a)) and  
10 incorporated by this reference as though fully set forth herein. The First Notice of  
11 Claim Disallowance erroneously states that the "[d]ate of claims received" was  
12 March 21, 2020.

13               8. On or after October 20, 2020, Defendant Internal Revenue Service  
14 sent by certified mail a LTR 105C to Sharleen G Robson, c/o Steve A Smith TTEE,  
15 2509 W Shaw Ave, Fresno, CA 93711-3308, that disallowed Sharleen G. Robson's  
16 "claim for credit [sic]" in the amount of \$283,347.00 for the Taxpayers for the  
17 taxable year ended December 31, 2015, as set forth in the 2015 Form 1040X/Claim  
18 for Refund, (hereinafter referred to as the "Second Notice of Claim Disallowance"),  
19 a copy of which is attached hereto as Exhibit F (redacted pursuant to Fed. R. Civ. P.  
20 5.2(a); Eastern District of California Local Rule 140(a)) and incorporated by this  
21 reference as though fully set forth herein. The Second Notice of Claim  
22 Disallowance erroneously states that the "[d]ate of claims received" was March 21,  
23 2020.

24               9. Plaintiff Stephen A. Smith alleges that a substantial part of the  
25 events or omissions giving rise to the refund claim set forth in the 2015 Form  
26 1040X/Claim for Refund occurred in the Eastern District of California. Venue is  
27 thus appropriately placed in the Eastern District of California pursuant to 28 U.S.C.  
28 §§ 1391 and 1402.

10. Six (6) months have elapsed since Plaintiff Stephen A. Smith filed the 2015 Form 1040X/Claim for Refund, and it is less than two (2) years since the refunds claimed in the 2015 Form 1040X/Claim for Refund were disallowed on or after August 17, 2020, per the First Notice of Claim Disallowance, and on or after October 20, 2020, per the Second Notice of Claim Disallowance. Accordingly, pursuant to 26 U.S.C. §§ 6532 and 7422, the conditions precedent to commence this refund action have been satisfied. Therefore, Plaintiff Stephen A. Smith hereby exercises his right, as the Special Administrator for the Estate of Robert W. Robson (Deceased) and as the Special Administrator for the Estate of Sharleen G. Robson (Deceased), under 26 U.S.C. §§ 7402(a) and 7422 and 28 U.S.C. §§ 1346(a)(1) and 2402 to bring this civil action against the Defendants for the recovery of an internal revenue tax erroneously assessed and collected for the taxable year ended December 31, 2015.

## II. BACKGROUND

11. As previously alleged, Robert G. Robson died on or about September 26, 2015. As a result, the adjusted basis of certain property held by Robert W. Robson (including, without limitation, Robert W. Robson's one-half share of all community property held by Robert W. Robson and Sharleen G. Robson, his surviving spouse, under the laws of the State of California and includible in determining the value of Robert W. Robson's gross estate under 26 U.S.C. §§ 2031, *et seq.*) acquired by the Estate of Robert W. Robson (Deceased) increased to its fair market value as of the date of Robert W. Robson's death under 26 U.S.C. § 1014(a)(1). In addition, as a result, the adjusted basis of Sharleen G. Robson's one-half share of all community property held by Robert W. Robson and Sharleen G. Robson under the laws of the State of California and includible in determining the value of Robert W. Robson's gross estate under 26 U.S.C. §§ 2031, *et seq.*, increased to its fair market value as of the date of Robert W. Robson's death under Treasury Regulations § 1.1014-2(a)(5).

1           12. As a result of the increase in the adjusted basis of the property  
2 described in paragraph 11 of this Complaint, Robert W. Robson (Deceased  
3 09/26/2015) and Sharleen G. Robson were entitled to claim addition deductions for  
4 depreciation with regard to certain property used by them in their farming business  
5 during the taxable year ended December 31, 2015.

6           13. Due to an error by the accountants for Sharleen G. Robson and  
7 Robert W. Robson (prior to his death), (hereinafter referred to as the "Taxpayers'  
8 Accountants"), Robert W. Robson (Deceased 09/26/2015) and Sharleen G. Robson  
9 failed to claim \$63,440.00 of the additional deductions for depreciation with regard  
10 to certain property used by them in their farming business during the taxable year  
11 ended December 31, 2015, described in paragraph 12 of this Complaint, in the  
12 Original 2015 Form 1040.

13           14. In order to correct the error described in paragraph 13 of this  
14 Complaint, Plaintiff Stephen A. Smith, on behalf of Sharleen G. Robson (Deceased  
15 02/19/2019), claimed an additional deduction for depreciation of \$63,440.00 in Part  
16 II, Line 16 – Other depreciation (including ACRS), of the 2015 Form 4562 and in  
17 Part II, Line 14 – Depreciation and section 179 expense, of the 2015 Schedule F of  
18 the As Amended 2015 Form 1040, reducing Robert W. Robson (Deceased  
19 09/26/2015) and Sharleen G. Robson's net farm profit for the taxable year ended  
20 December 31, 2015, to \$1,094,834.00, as reported on Line 34 of the Schedule F and  
21 on Line 18 of the As Amended 2015 Form 1040.

22           15. On or about October 15, 2018, Sharleen G. Robson e-filed a U.S.  
23 Individual Income Tax Return (Form 1040) for Sharleen G. Robson for the taxable  
24 year ended December 31, 2016, (hereinafter referred to as the "Original 2016 Form  
25 1040") with Defendant Internal Revenue Service, reporting Federal income tax of  
26 \$0.00 for such taxable year.

27           16. Plaintiff Stephen A. Smith, on behalf of Sharleen G. Robson  
28 (Deceased 02/19/2015), reported a net operating loss of \$1,827,684.00 on Line 25 of



1 the 2016 Schedule A – Net Operating Loss (NOL) of the Original 2016 Form 1040  
2 (hereinafter referred to as the "2016 NOL").

3 17. Based upon the advice of the Taxpayers' Accountants, Stephen A.  
4 Smith, on behalf of Sharleen G. Robson (Deceased 02/19/2019), carried back the  
5 2016 NOL to each of the two (2) taxable years preceding the taxable year of the loss  
6 (i.e., to the taxable years ended December 31, 2014, and December 31, 2015) under  
7 26 U.S.C. §§ 172(b)(1)(A)(i) and 172(b)(2), by filing on or about August 16, 2019,  
8 with Defendant Internal Revenue Service:

9 (i) an Amended U.S. Individual Income Tax Return (Form  
10 1040X) for the Taxpayers for the taxable year ended December 31, 2014  
11 (hereinafter referred to as the "2014 Form 1040X"), together with a copy of  
12 an As Amended 2014 U.S. Individual Federal Income Tax Return (Form  
13 1040) attached thereto (hereinafter individually referred to as the "As  
14 Amended 2014 Form 1040" and, collectively with the 2014 Form 1040X, as  
15 the "2014 Form 1040X/Claim for Refund"), claiming an overpayment of  
16 Federal income tax of \$433,515.00 for the taxable year ended December 31,  
17 2014, pursuant to 26 U.S.C. §§ 6402(a), 6511(a), and 6511(d)(2)(A) and  
18 Treasury Regulations §§ 301.6402-1, 301.6402-2, and 301.6402-3(a)(2), and

19 (ii) the 2015 Form 1040X/Claim for Refund claiming an  
20 overpayment of Federal income tax of \$283,347.00 for the taxable year ended  
21 December 31, 2015, pursuant to 26 U.S.C. §§ 6402(a), 6511(a), and  
22 6511(d)(2)(A) and Treasury Regulations §§ 301.6402-1, 301.6402-2, and  
23 301.6402-3(a)(2), and the 2015 Form 1310.

24 18. On or about February 20, 2020, Defendant Internal Revenue  
25 Service granted the refund claimed in the 2014 Form 1040X/Claim for Refund and  
26 refunded the overpayment of Federal income tax of \$433,515.00 for the taxable year  
27 ended December 31, 2014, claimed therein, together with interest thereon as allowed  
28 by law, to Plaintiff Stephen A. Smith, on behalf of the Taxpayers.

19. The 2016 NOL constituted a "farming loss", as defined in 26 U.S.C. § 172(h)(1). Thus, the 2016 NOL was to be carried back to each of the five (5) taxable years preceding the taxable year of the loss (i.e., to the taxable years ended December 31, 2011, December 31, 2012, December 31, 2013, December 31, 2014, and December 31, 2015) under 26 U.S.C. §§ 172(b)(1)(F) and 172(b)(2).

### III. CAUSE OF ACTION

A. PLAINTIFF STEPHEN A. SMITH IS ENTITLED TO A REFUND OF THE OVERPAYMENT OF FEDERAL INCOME TAX BY THE TAXPAYERS FOR THE TAXABLE YEAR ENDED DECEMBER 31, 2015, TOGETHER WITH INTEREST THEREON AS ALLOWED BY LAW

20. The allegations set forth in paragraphs 1 – 19 of this Complaint are hereby realleged and incorporated herein by reference as though fully set forth herein.

21. As previously alleged, on or after August 17, 2020, Defendant Internal Revenue Service issued to Plaintiff Stephen A. Smith the First Notice of Claim Disallowance relating to the 2015 Form 1040X/Claim for Refund that disallowed the Taxpayers' "claim for credit [sic]" in the amount of \$63,440.00 [sic] for the taxable year ended December 31, 2015, and "claim for the \$63,440.00 farm loss reported on line 18 of your amended Form 1040" for the taxable year ended December 31, 2015, as set forth in the As Amended 2015 Form 1040.

22. Defendant Internal Revenue Service's position, as stated in the First Notice of Claim Disallowance, disallowed the Taxpayers' claim for an additional \$63,440.00 farm loss reported on line 18 of the As Amended 2015 Form 1040 for the following reason:

"We can't allow your claim for credit or refund because you filed it more than 3 years after you filed your tax return. You must file a claim within 3 years from the date you filed the return." (Exhibit E, Why We Can't Allow Your Claim).



1           23. As previously alleged, on or after October 20, 2020, Defendant  
2 Internal Revenue Service issued Plaintiff Stephen A. Smith the Second Notice of  
3 Claim Disallowance relating to the 2015 Form 1040X/Claim for Refund that  
4 disallowed Sharleen G. Robson's "claim for credit (sic)" in the amount of  
5 \$283,347.00 for the taxable year ended December 31, 2015, as set forth in the 2015  
6 Form 1040X/Claim for Refund.

7           24. Defendant Internal Revenue Service's position, as stated in the  
8 Second Notice of Claim Disallowance, disallowed Sharleen G. Robson's claim for  
9 refund of \$283,347.00 of overpaid Federal income tax for the taxable year ended  
10 December 31, 2015, claimed in the 2015 Form 1040X/Claim for Refund for the  
11 following reason:

12                   "A net operating loss must be filed within 3 years of the due date  
13 or extended due date of the loss year return. The loss year return is the return  
14 filed for the year the net operating loss was incurred. The due date for your  
15 2016 loss year return was April 15, 2017. In order to be valid, your  
completed claim needed to be filed by April 15, 2020.

16                   We don't consider an amended return filed, when any  
17 information is necessary to process the amended return is missing. We  
18 previously sent you correspondence requesting information necessary to  
19 process your amended return. Since we did not receive the requested  
20 information, we are forced to disallow your claim." (Exhibit F, Why We  
Cannot Allow Your Claim)

21           25. Plaintiff Stephen A. Smith contests the validity of the First Notice  
22 of Claim Disallowance and the Second Notice of Claim Disallowance, and each and  
23 every item contained therein proposing to disallow the Taxpayers' claim for refund  
24 of Federal income tax for the taxable year ended December 31, 2015, based upon  
25 each and every statement contained in Exhibits C and D, previously incorporated by  
26 reference as though fully set forth herein.

27           26. The 2015 Form 1040X/Claim for Refund was filed on or about  
28 August 16, 2019, within three (3) years of April 15, 2017, the due date for the

1 Original 2016 Form 1040.

2           27. The 2015 Form 1040X/Claim for Refund included all information  
3 necessary to grant the refund of Federal income tax owing to the Taxpayers for the  
4 taxable year ended December 31, 2015, together with interest thereon as allowed by  
5 law.

6           28. Alternatively, the Taxpayers' Accountants timely provided all  
7 relevant information and documents requested by Defendant Internal Revenue  
8 Service to process the 2015 Form 1040X/Claim for Refund, as supplemented by  
9 such additional information and documents, to grant the refund of Federal income  
10 tax owing to the Taxpayers for the taxable year ended December 31, 2015, together  
11 with interest thereon as allowed by law.

12           29. The Taxpayers have overpaid their Federal income tax for the  
13 taxable year ended December 31, 2015, by the amount set forth in the 2015 Form  
14 1040X/Claim for Refund, as adjusted to take into account the correct amount of the  
15 2016 NOL to be carried back to the taxable year ended December 31, 2015, under  
16 26 U.S.C. § 172(b)(2), utilizing the correct carryback period for the 2016 NOL set  
17 forth in 26 U.S.C. § 172(b)(1)(F), or any other amount as allowed by law, and are  
18 entitled to a refund of such overpayment of Federal income tax, together with  
19 interest thereon as allowed by law.

20           30. It is error for Defendant Internal Revenue Service to disallow  
21 Plaintiff Stephen A. Smith's claim for refund of overpaid Federal income tax for the  
22 taxable year ended December 31, 2015, filed on behalf of the Taxpayers, in the  
23 amount specified in paragraph 29 of this Complaint, for any reason.

24           B.     ALTERNATIVELY, PLAINTIFF STEPHEN A. SMITH IS  
25                   ENTITLED TO A DETERMINATION, AS DEFINED IN 26 U.S.C. §  
26                   1313(a)(1), TO ALLOW PLAINTIFF STEPHEN A. SMITH, ON  
27                   BEHALF OF THE TAXPAYERS, TO APPLY THE MITIGATION  
28                   PROVISIONS SET FORTH IN 26 U.S.C. §§ 1311 – 1314 TO

CORRECT THE EFFECT OF THE ERROR REFERRED TO IN 26 U.S.C. § 1312(4) UNDER 26 U.S.C. § 1314 AND TREASURY REGULATIONS §§ 1.1314(a)-1 – 1.1314(c)-1

31. The allegations set forth in paragraphs 1 – 30 of this Complaint are hereby realleged and incorporated herein by reference as though fully set forth herein.

32. Under 26 U.S.C. § 1311, if a "determination", as defined in 26 U.S.C. § 1313(a), results in a "circumstance of adjustment", as defined in 26 U.S.C. § 1312, and the correction of the effect of the error referred to in such circumstance of adjustment is prevented by operation of any law or rule of law (other than 26 U.S.C. §§ 1311 – 1314), then the effect of such error shall be corrected by an adjustment made in the amount and in the manner set forth in 26 U.S.C. § 1314.

33. Assuming, *arguendo*, that after utilizing the correct carryback period for the 2016 NOL set forth in 26 U.S.C. § 172(b)(1)(F), the correct amount of the 2016 NOL to be carried back to the taxable year ended December 31, 2015, under 26 U.S.C. § 172(b)(2) is \$0.00, the amount of the 2016 NOL carryback deduction of \$666,803.00 claimed in the 2015 Form 1040X/Claim for Refund will be disallowed.

34. Utilizing the correct carryback period for the 2016 NOL set forth in 26 U.S.C. § 172(b)(1)(F) and the carryback procedure set forth in 26 U.S.C. § 172(b)(2), the Taxpayers will have overpaid their Federal income tax for one or more of the taxable years ended December 31, 2011, December 31, 2012, December 31, 2013, and December 31, 2014. However, the three (3) year statute of limitations for the Taxpayers to file a claim for refund of such overpaid Federal income tax for such taxable years set forth in 26 U.S.C. § 6511(a) has run.

35. Under 26 U.S.C. § 1312(4), a "circumstance of adjustment" includes a double disallowance of a deduction or credit.

36. Based upon the facts alleged in paragraphs 33 and 34 of this

1 Complaint, a "circumstance of adjustment", as defined in 26 U.S.C. § 1312(4),  
2 exists.

3           37. Under 26 U.S.C. § 1311(b)(2)(B), in the case of a circumstance of  
4 adjustment defined in 26 U.S.C. § 1312(4), refund of the overpayment of Federal  
5 tax attributable to the disallowed deduction or credit that should have been allowed  
6 to the taxpayer in the proper taxable year or taxable years must not be barred by any  
7 law or rule of law at the time the taxpayer first maintained before the Secretary of  
8 the Treasury or the United States Tax Court, in writing, that such taxpayer was  
9 entitled to such deduction or credit for the taxable year to which such determination  
10 relates.

11           38. As of the date that Plaintiff Stephen A. Smith filed the 2015 Form  
12 1040X/Claim for Refund (i.e., on or about August 16, 2019), Plaintiff Stephen A.  
13 Smith, on behalf of the Taxpayers, could have timely filed Amended U.S. Individual  
14 Income Tax Returns (Forms 1040X), and any other Federal income tax returns or  
15 statements, pursuant to 26 U.S.C. §§ 6402(a), 6511(a), and 6511(d)(2)(A) and  
16 Treasury Regulations §§ 301.6402-1, 301.6402-2, and 301.6402-3(a)(2), to claim a  
17 refund of the overpaid Federal income tax by the Taxpayers for the taxable years  
18 ended December 31, 2011, December 31, 2012, December 31, 2013, and/or  
19 December 31, 2014, as applicable, to take into account the correct amount of the  
20 2016 NOL to be carried back to such taxable years under 26 U.S.C. § 172(b)(2),  
21 utilizing the correct carryback period for the 2016 NOL set forth in 26 U.S.C. §  
22 172(b)(1)(F).

23           39. Based upon the facts alleged in paragraph 38 of this Complaint, the  
24 condition set forth in 26 U.S.C. § 1311(b)(2)(B) is satisfied.

25           40. As a result, if this Court makes an appropriate determination, as  
26 defined in 26 U.S.C. § 1313(a)(1) and Treasury Regulations § 1.1313(a)-1, the  
27 mitigation of the effect of bar of the statute of limitations to file a claim for refund  
28 by Plaintiff Stephen A. Smith, on behalf of the Taxpayers, for the taxable years

1 ended December 31, 2011, December 31, 2012, December 31, 2013, and December  
2 31, 2014, as applicable, under 26 U.S.C. § 6511(a), will apply because the  
3 requirements set forth in 26 U.S.C. §§ 1311 – 1313 will be satisfied, and correction  
4 of the effect of the error in applying the wrong carryback period for the 2016 NOL  
5 can be achieved by an adjustment made in the amount and in the manner specified  
6 in 26 U.S.C. § 1314 and Treasury Regulations §§ 1.1314(a)-1 – 1.1314(c)-1, for  
7 taxable years ended December 31, 2011, December 31, 2012, December 31, 2013,  
8 and December 31, 2014, as applicable.

9 WHEREFORE, Plaintiff prays relief that this Court Order and Adjudge  
10 as follows:

11 1. The First Notice of Claim Disallowance and the Second Notice of  
12 Claim Disallowance each be ordered and adjudged invalid, null, and void.

13 2. Plaintiff Stephen A. Smith be refunded the amount of the overpaid  
14 Federal income tax by the Taxpayers for the taxable year ended December 31, 2015,  
15 in the amount set forth in the 2015 Form 1040X/Claim for Refund, as adjusted to  
16 take into account the correct amount of the 2016 NOL to be carried back to the  
17 taxable year ended December 31, 2015, under 26 U.S.C. § 172(b)(2), utilizing the  
18 correct carryback period for the 2016 NOL set forth in 26 U.S.C. § 172(b)(1)(F), or  
19 any other amount as allowed by law, together with interest thereon as allowed by  
20 law.

21 3. Alternatively, make an appropriate determination, as defined in 26  
22 U.S.C. § 1313(a)(1) and Treasury Regulations § 1.1313(a)-1, to allow Plaintiff  
23 Stephen A. Smith, on behalf of the Taxpayers, to apply the mitigation provisions set  
24 forth in 26 U.S.C. §§ 1311 – 1314 and Treasury Regulations §§ 1.1311(a)-1 –  
25 1.1314(c)-1 to correct the effect of the error referred to in 26 U.S.C. § 1312(4) under  
26 26 U.S.C. § 1314 and Treasury Regulations §§ 1.1314(a)-1 – 1.1314(c)-1, including,  
27 without limitation, to allow Stephen A. Smith, on behalf of the Taxpayers, to file  
28 Amended U.S. Individual Income Tax Returns (Forms 1040X), and any other

1 Federal income tax returns or statements, to claim a refund of overpaid Federal  
2 income tax by the Taxpayers for the taxable years ended December 31, 2011,  
3 December 31, 2012, December 31, 2013, and/or December 31, 2014, as applicable,  
4 to take into account the correct amount of the 2016 NOL to be carried back to such  
5 taxable years under 26 U.S.C. § 172(b)(2), utilizing the correct carryback period for  
6 the 2016 NOL set forth in 26 U.S.C. § 172(b)(1)(F), or any other amount as allowed  
7 by law, together with interest as allowed by law.

8 4. Defendant Internal Revenue Service be ordered, adjudged, enjoined,  
9 restrained and prohibited from taking any assessment, collection or other action  
10 directly or indirectly derived from, or based on the First Notice of Claim  
11 Disallowance and/or the Second Notice of Claim Disallowance.

12 5. Plaintiff Stephen A. Smith is entitled to recover costs, attorneys' fees  
13 and such other and further relief as this Court may deem to be appropriate.

#### 14 **IV. DEMAND FOR TRIAL BY JURY**

15 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff  
16 Stephen A. Smith requests trial by jury.

17 DATED: August 16, 2022

Respectfully submitted,

18 BAKER MANOCK & JENSEN, PC  
19

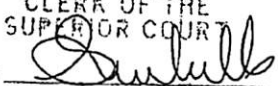
20 By: /s/ Craig A. Houghton  
21 Attorneys for STEPHEN A. SMITH,  
22 as Special Administrator of the  
23 ESTATE OF SHARLEEN G.  
24 ROBSON and as Special  
25 Administrator of the ESTATE OF  
26 ROBERT W. ROBSON  
27  
28



# **Exhibit A**

This e-copy is the official court record (GC68150)

DE-150

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) Jeffrey A. Jaech 076876 Baker Manock & Jensen PC 5260 N. Palm Avenue, Suite 201 Fresno CA 93704 TELEPHONE AND FAX NOS.: 559-432-5400 559-432-5620	<div style="text-align: center;"> <b>FILED</b>  <b>FOR COURT USE ONLY</b>  <b>MERCED COUNTY</b>          2022 AUG 15 AM 10:30          CLERK OF THE          SUPERIOR COURT          BY           DEPUTY       </div>
ATTORNEY FOR (Name): Stephen A. Smith, Petitioner <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Merced</b> STREET ADDRESS: 627 West 21st Street MAILING ADDRESS: 627 West 21st Street CITY AND ZIP CODE: Merced 95340 BRANCH NAME: Old Merced Courthouse	
ESTATE OF (Name): Sharleen G. Robson <div style="text-align: right;">DECEDENT</div>	
<div style="text-align: center;"><b>LETTERS</b></div> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> TESTAMENTARY  <input type="checkbox"/> OF ADMINISTRATION WITH WILL ANNEXED         </div> <div> <input type="checkbox"/> OF ADMINISTRATION  <input checked="" type="checkbox"/> SPECIAL ADMINISTRATION         </div> </div>	
CASE NUMBER: <div style="text-align: right;">22PR-00251</div>	

**LETTERS**

1. ☐ The last will of the decedent named above having been proved, the court appoints (name):
  - a. ☐ executor.
  - b. ☐ administrator with will annexed.
2. ☒ The court appoints (name):  
 Stephen A. Smith
  - a. ☐ administrator of the decedent's estate.
  - b. ☒ special administrator of decedent's estate
    - (1) ☒ with the special powers specified in the Order for Probate.
    - (2) ☐ with the powers of a general administrator.
    - (3) ☐ letters will expire on (date):
3. ☐ The personal representative is authorized to administer the estate under the Independent Administration of Estates Act
 

☐ with full authority
 ☐ with limited authority (no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
4. ☐ The personal representative is not authorized to take possession of money or any other property without a specific court order.

**AFFIRMATION**

1. ☐ PUBLIC ADMINISTRATOR: No affirmation required (Prob. Code, § 7621 (c)).
2. ☒ INDIVIDUAL: I solemnly affirm that I will perform the duties of personal representative according to law.
3. ☐ INSTITUTIONAL FIDUCIARY (name):

I solemnly affirm that the institution will perform the duties of personal representative according to law  
 I make this affirmation for myself as an individual and on behalf of the institution as an officer.

(Name and title):

4. Executed on (date): 8/5/22  
 at (place): Fresno, California.

  
 (SIGNATURE)

Stephen A. Smith

**CERTIFICATION**

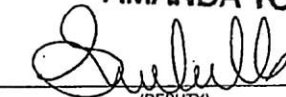
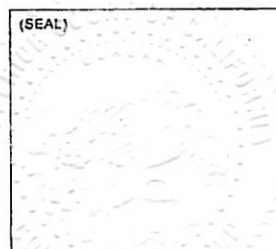
I certify that this document is a correct copy of the original on file in my office and the letters issued by the personal representative appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

WITNESS, clerk of the court, with seal of the court affixed.



Date: AUG 15 2022

Clerk, by AMANDA TOSTE

  
 (DEPUTY)



Date: AUG 15 2022

Clerk, by AMANDA TOSTE

  
 (DEPUTY)

# **Exhibit B**

DE-150

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address) <b>Jeffrey A. Jaech 076876</b> Baker Manock & Jensen PC 5260 N. Palm Avenue, Suite 201 Fresno CA 93704		TELEPHONE AND FAX NOS.: 559-432-5400 559-432-5620	FOR COURT USE ONLY <b>MERCED COUNTY</b> 2022 AUG 15 AM 9:33 CLERK OF THE SUPERIOR COURT BY  DEPUTY
ATTORNEY FOR (Name): <b>Stephen A. Smith, Petitioner</b> <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Merced</b> STREET ADDRESS: 627 West 21st Street MAILING ADDRESS: 627 West 21st Street CITY AND ZIP CODE: Merced 95340 BRANCH NAME: Old Merced Courthouse			
ESTATE OF (Name): <b>Robert W. Robson</b> DECEDENT			
LETTERS <input type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION WITH WILL ANNEXED		CASE NUMBER: <b>22PR-00250</b> <input type="checkbox"/> OF ADMINISTRATION <input checked="" type="checkbox"/> SPECIAL ADMINISTRATION	

## LETTERS

- ☐ The last will of the decedent named above having been proved, the court appoints (name):
  - ☐ executor.
  - ☐ administrator with will annexed.
- ☒ The court appoints (name): **Stephen A. Smith**
  - ☐ administrator of the decedent's estate.
  - ☒ special administrator of decedent's estate
    - ☒ with the special powers specified in the Order for Probate.
    - ☐ with the powers of a general administrator.
    - ☐ letters will expire on (date):
- ☐ The personal representative is authorized to administer the estate under the Independent Administration of Estates Act ☐ with full authority ☐ with limited authority (no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
- ☐ The personal representative is not authorized to take possession of money or any other property without a specific court order.

## AFFIRMATION

- ☐ PUBLIC ADMINISTRATOR: No affirmation required (Prob. Code, § 7621 (c)).
- ☒ INDIVIDUAL: I solemnly affirm that I will perform the duties of personal representative according to law.
- ☐ INSTITUTIONAL FIDUCIARY (name):

I solemnly affirm that the institution will perform the duties of personal representative according to law  
 I make this affirmation for myself as an individual and on behalf of the institution as an officer.  
 (Name and title):

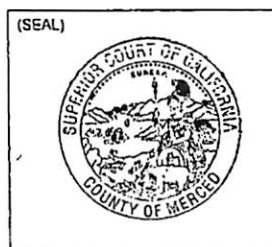
- Executed on (date): **8/5/22**  
 at (place): **Fresno**, California.

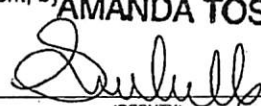
  
 (SIGNATURE)  
**Stephen A. Smith**

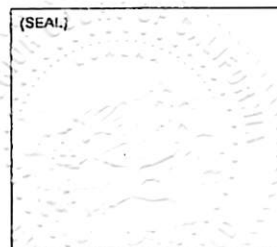
## CERTIFICATION


I certify that this document is a correct copy of the original on file in my office and the letters issued by the personal representative appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

WITNESS, clerk of the court, with seal of the court affixed.



Date: **AUG 15 2022**  
 Clerk, by **AMANDA TOSTE**  
  
 (DEPUTY)



Date: **AUG 15 2022**  
 Clerk, by **AMANDA TOSTE**  
  
 (DEPUTY)

# Exhibit C



06A053



Form 1040X (Rev. 1-2016) ROBERT W. &amp; SHARLEEN G. ROBSON

9787 Page 2

**Part I Exemptions**

Complete this part only if you are increasing or decreasing the number of exemptions (personal and dependent) claimed on line 8 of the return you are amending.

See Form 1040 or Form 1040A Instructions and Form 1040X Instructions.

	A. Original number of exemptions or amount reported or as previously adjusted	B. Not change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself.	24		
25 Your dependent children who lived with you.	25		
26 Your dependent children who did not live with you due to divorce or separation.	26		
27 Other dependents.	27		
28 Total number of exemptions. Add lines 24 through 27.	28		
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form.	29		

29 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child (or child tax credit)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

**Part II Presidential Election Campaign Fund**

Checking below will not increase your tax or reduce your refund.

☐ Check here if you did not previously want \$3 to go to the fund, but now do.☐ Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.**Part III Explanation of changes.** In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

THE ORIGINAL PRIOR 2015 INCOME TAX RETURN IS BEING AMENDED TO INCLUDE THE FIVE-STEP LB RATES OF THREE ON THE SCHEDULE F AT 9/26/2015, AND THE NET OPERATING LOSS CARRYBACK FROM 2015.

Sign Here

Remember to keep a copy of this form for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information about which the preparer has any knowledge.


 Your signature \_\_\_\_\_ Date 03/24/19

Paid Preparer Use Only

Spouse's signature. If a joint return, both must sign. Date \_\_\_\_\_

CHRISTOPHER B. MORSE

03/24/19

MOSS ADAMS LLP

Preparer's signature

Date

Firm's name (or yours if self-employed)

CHRISTOPHER B. MORSE

Print/type preparer's name

265 E. RIVER PARK CIRCLE STE 11  
FRESNO, CA 93720

Firm's address and ZIP code

559-389-5700

9318

Phone number

EIN

PTIN

For forms and publications, visit IRS.gov.

Form 1040X (Rev. 1-2016)

06A054

Form 1040X

Department of the Treasury - Internal Revenue Service

## Amended U.S. Individual Income Tax Return

OMB No. 1545-0074

(Rev. January 2016)

Information about Form 1040X and its separate instructions is at [www.irs.gov/form1040x](http://www.irs.gov/form1040x).This return is for calendar year ☒ 2015 ☐ 2014 ☐ 2013 ☐ 2012

or fiscal year (month and year ended):

Your first name and initial  
ROBERT W.Last name (DEC. 09/26/15)  
ROBSONYour social security number  
[REDACTED] 9787If a joint return, spouse's first name and initial  
SHARLEEN G.Last name (DEC. 02/15/19)  
ROBSONSpouse's social security number  
[REDACTED] 7989Current home address (number and street). If you have a P.O. box, see instructions.  
12685 BUCHANAN HOLLOW ROAD

Apt. no.

Your phone number

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).

LE GRAND, CA 95333

Foreign country name

Foreign province/state/county

Foreign postal code

Amended return filing status. You must check one box even if you are not changing your filing status. Caution: In general, you cannot change your filing status from joint to separate returns after the due date.

- ☐ Single ☐ Head of household (If the qualifying person is a child but not your dependent, see instructions.)
- ☒ Married filing jointly
- ☐ Married filing separately ☐ Qualifying widow(er)

Full-year coverage.

If all members of your household have full-year minimal essential health care coverage, check "Yes." Otherwise, check "No." (See instr.)

☒ Yes ☐ No

Use Part III on page 2 to explain any changes

## Income and Deductions

1 Adjusted gross income. If net operating loss (NOL) carryback is included, check here ☐

2 Itemized deductions or standard deduction

3 Subtract line 2 from line 1

4 Exemptions. If changing, complete Part I on page 2 and enter the amount from line 29

5 Taxable income. Subtract line 4 from line 3

A. Original amount  
or as previously  
adjusted  
(see instructions)B. Net change -  
amount of increase  
or (decrease) -  
explain in Part IIIC. Correct  
amount

## Tax Liability

6 Tax. Enter method(s) used to figure tax:

QDCGTW

7 Credits. If general business credit carryback is included, check here ☐

8 Subtract line 7 from line 6. If the result is zero or less, enter -0-

9 Health care: individual responsibility (see instructions)

10 Other taxes

11 Total tax. Add lines 8, 9, and 10

## Payments

12 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (If changing, see instructions.)

13 Estimated tax payments, including amount applied from prior year's return

14 Earned income credit (EIC)

15 Refundable credits from: ☐ Schedule 8812 ☐ Form(s) ☐ 2439 ☐ 4136☐ 8801 ☐ 8883 ☐ 8885 ☐ 8962 or☐ other (specify):

16 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed

17 Total payments. Add lines 12 through 16

## Refund or Amount You Owe

18 Overpayment, if any, as shown on original return or as previously adjusted by the IRS

19 Subtract line 18 from line 17 (If less than zero, see instructions.)

20 Amount you owe. If line 11, column C, is more than line 19, enter the difference

21 If line 11, column C, is less than line 19, enter the difference. This is the amount overpaid on this return

22 Amount of line 21 you want refunded to you

23 Amount of line 21 you want applied to your (enter year):

estimated tax 23

Complete and sign this form on Page 2.

**Part I Exemptions**

Complete this part only if you are increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending.

See Form 1040 or Form 1040A instructions and Form 1040X instructions.

	A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself .....	24		
25 Your dependent children who lived with you .....	25		
26 Your dependent children who did not live with you due to divorce or separation .....	26		
27 Other dependents .....	27		
28 Total number of exemptions. Add lines 24 through 27 .....	28		
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form .....	29		
30 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.			

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

**Part II Presidential Election Campaign Fund**

Checking below will not increase your tax or reduce your refund.

- ☐ Check here if you did not previously want \$3 to go to the fund, but now do.
- ☐ Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

**Part III Explanation of changes.** In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

THE ORIGINALLY FILED 2015 INCOME TAX RETURN IS BEING AMENDED TO INCLUDE THE FMV-STEP UP BASIS OF TREES ON THE SCHEDULE F AT 9/26/2015, AND THE NET OPERATING LOSS CARRYBACK FROM 2016.

**Sign Here**

Remember to keep a copy of this form for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information about which the preparer has any knowledge.

Your signature

Date

Spouse's signature. If a joint return, both must sign. Date

Paid Preparer Use Only

CHRISTOPHER B. MORSE

03/24/19

MOSS ADAMS LLP

Preparer's signature

Date

Firm's name (or yours if self-employed)

CHRISTOPHER B. MORSE

265 E. RIVER PARK CIRCLE STE 11  
FRESNO, CA 93720

Print/type preparer's name

Firm's address and ZIP code

559-389-5700

9318

☐ Check if self-employed

Phone number

EIN

PTIN

The As Amended 2015 Form 1040 (Exhibit C – Page 6 through Exhibit C – Page 47) is the subject of Plaintiff Stephen A. Smith’s Request to File Documents Under Seal pursuant to Fed. R. Civ. P. 5.2(d) and Eastern District of California Local Rule 141(b) that will be submitted to the District Court Judge who will be assigned to this case, once assigned by the Clerk. Thus, a copy of the As Amended 2015 Form 1040 is not included in this filing pending this Court’s ruling on Plaintiff Stephen A. Smith’s Request to File Documents Under Seal.



# Exhibit D

Form **1310**  
(Rev. August 2014)**Statement of Person Claiming  
Refund Due a Deceased Taxpayer**

OMB No. 1545-0074

Department of the Treasury  
Internal Revenue Service▶ Information about Form 1310 is available at [www.irs.gov/form1310](http://www.irs.gov/form1310).  
▶ See instructions.Attachment  
Sequence No. **87**

Tax year decedent was due a refund:

Calendar year **2015**, or other tax year beginning , 20 , and ending , 20

Please print or type	Name of decedent <b>ROBERT W. ROBSON</b>	Date of death <b>09/26/15</b>	Decedent's social security no. <b>9787</b>
	Name of person claiming refund <b>STEVE A SMITH</b>		Your social security number <b>2482</b>
	Home address (number and street). If you have a P.O. box, see instructions. <b>2509 W SHAW AVE</b>		Apt. no.
	City, town or post office, state, and ZIP code. If you have a foreign address, see instructions. <b>FRESNO, CA 93711</b>		

**Part I** Check the box that applies to you. Check only one box. Be sure to complete Part III below.

- A ☐ Surviving spouse requesting reissuance of a refund check (see instructions).
- B ☐ Court-appointed or certified personal representative. Attach a court certificate showing your appointment, unless previously filed (see instructions).
- C ☒ Person, other than A or B, claiming refund for the decedent's estate (see instructions). Also, complete Part II.

**Part II** Complete this part only if you checked the box on line C above.

	Yes	No
1 Did the decedent leave a will? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2a Has a court appointed a personal representative for the estate of the decedent? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b If you answered "No" to 2a, will one be appointed? .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If you answered "Yes" to 2a or 2b, the personal representative must file for the refund.		
3 As the person claiming the refund for the decedent's estate, will you pay out the refund according to the laws of the state where the decedent was a legal resident? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If you answered "No" to 3, a refund cannot be made until you submit a court certificate showing your appointment as personal representative or other evidence that you are entitled under state law to receive the refund.		

**Part III** Signature and verification. All filers must complete this part.

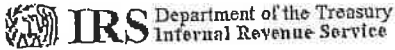
I request a refund of taxes overpaid by or on behalf of the decedent. Under penalties of perjury, I declare that I have examined this claim, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of person claiming refund ▶

Date ▶



# **Exhibit E**



IRS  
AUSTIN TX 73301-0025

9307110756606849906094

In reply refer to: 0538905825  
Aug. 17, 2020 LTR 105C 0  
[REDACTED] 9787 201512 30  
Input Op: 0538905825 00001561  
BQDC: SB

ROBERT DECD & SHARLEEN DECD ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711

000995

CERTIFIED MAIL

Taxpayer identification number: [REDACTED] 9787  
Kind of tax: Federal Income Tax  
Amount of claim: \$63,440.00

Date of claims received: Mar. 21, 2020  
Tax period: Dec. 31, 2015

CISC33QQRQ

Dear Taxpayer:

WE CAN'T ALLOW YOUR CLAIM

We disallowed your claim for credit for the tax period listed at the top of this letter.

WHY WE CAN'T ALLOW YOUR CLAIM

We can't allow your claim for the \$63,440.00 farm loss reported on line 18 of your amended Form 1040.

We can't allow your claim for credit or refund because you filed it more than 3 years after you filed your tax return. You must file a claim within 3 years from the date you filed the return.

We can only credit or refund the amount you paid during the three-year period before you filed the claim (plus any approved extension of time to file). We consider tax you withheld and estimated tax payments as paid on the due date (i.e., April 15) for filing your tax return. We treat the amount of the allowable earned income credit that exceeds the actual income tax you owe in a similar manner as tax payments you made.

WHAT TO DO IF YOU DISAGREE

You can appeal our decision with the Office of Appeals (which is an independent organization within the IRS) if we disallowed your claim because our records show that you filed your claim late. Generally, a claim is late if you filed it after the later of:

0538905825  
Aug. 17, 2020 LTR 105C 0  
9787 201512 30  
Input Op: 0538905825 00001562

ROBERT DECD & SHARLEEN DECD ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711

- 3 years from the due date of a timely-filed return without an extension
- 3 years from the date we received a late return or a timely filed return with an approved extension
- 2 years after you paid the tax

In addition, for a claim filed within three years of the date you filed your tax return, we can only refund or credit the amount you paid during the three-year period before the date you file the claim (plus any approved extension of time to file). If you file your claim more than three years after the date you filed your return, we can only credit or refund the amount you paid during the two-year period before the date you file the claim. The Appeals Office can't change the amount of time the law allows you to file a claim for refund or credit.

If you decide to appeal our decision, send us an explanation of why you believe you filed your claim on time; for example, you had an extension of time to file your original tax return. We will consider your explanation before forwarding your request to the Office of Appeals.

Please note, reasonable cause or similar explanations that may provide relief from a penalty for filing a tax return late don't apply to the time limitations for filing a claim set by law. Exceptions that can extend the time to file a claim for refund include:

- Service in a combat zone
- A claim involving an item with a filing period longer than the general three-year period (for example, bad debts and worthless securities)
- Financial disability

Financial disability is the inability to manage financial affairs due to a medically-determined physical or mental impairment that could result in death or that lasts (or can be expected to last) continuously for at least twelve months. A physician's written statement is required as proof of financial disability. Please review Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, for more information about these exceptions.

You have the right to appeal our decision to disallow your claim. You can represent yourself before Appeals or you can have an attorney, certified public accountant, enrolled agent, or any other person authorized to practice before the IRS represent you. To have someone represent you, attach Form 2848, Power of Attorney and Declaration of

0538905825

Aug. 17, 2020 LTR 105C 0

9787 201512 30

Input Op: 0538905825 00001563

ROBERT DECD & SHARLEEN DECD ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711

Representative, (or similar written power of attorney) to your written statement. If we don't hear from you within 30 days from the date of this letter, we will process your case with the information we have now.

For claims \$25,000 or less, you can request a small dollar case appeal. You must prepare a formal protest for a disallowed claim over \$25,000.

To request a small dollar case appeal:

1. Prepare a written statement that you want to appeal to the Office of Appeals.
2. List the tax periods or years and disallowed items you disagree with and why you don't agree with each item.
3. Provide your name, address, taxpayer identification number, daytime telephone number, and a copy of this letter.
4. Mail your appeal request to the address at the top of the first page of this letter.

To prepare a formal protest:

1. Prepare a written statement that you want to appeal to the Office of Appeals.
2. List the tax periods or years and disallowed items you disagree with and why you don't agree with each item.
3. Provide your name, address, taxpayer identification number, daytime telephone number, and a copy of this letter.
- ~~4. Include a detailed statement of facts with names, amounts, locations, etc., to support your reasons for disputing the disallowance.~~
5. If you know the particular law or authority that supports your position, identify that law or authority by providing a legal citation.
6. Sign the perjury statement below and include it with your written appeal. If your authorized representative prepares the request for an appeal, he or she must sign the statement.
7. Mail your written formal protest to the address at the top of the first page of this letter.

#### STATEMENT BY INDIVIDUALS OR SOLE PROPRIETORS

"Under penalties of perjury, I declare that the facts present on my written appeal are, to the best of my knowledge and belief, true, correct, and complete."

0538905825  
Aug. 17, 2020 LTR 105C 0  
9787 201512 30  
Input Op: 0538905825 00001564

ROBERT DECD & SHARLEEN DECD ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711

Signature

Date

Spouse's signature, if a joint return

Date

STATEMENT BY INDIVIDUAL AUTHORIZED TO PRACTICE BEFORE THE IRS

"Under penalties of perjury, I declare that I prepared the written statement and accompanying documents. To the best of my knowledge the protest and accompanying documents are true and correct."

Signature of representative

Enrollment number Date

If you don't agree with our decision, you can file suit to recover tax, penalties, or other amounts, with the United States District Court that has jurisdiction or with the United States Court of Federal Claims. These courts are part of the judicial branch of the federal government and have no connection with the IRS.

The law gives you 2 years from the date of this notice of claim disallowance to file suit. If you signed an agreement that waived your right to this notice of disallowance Form 2297, Waiver of Statutory Notification of Claim Disallowance, the period for filing suit begins on the date you filed the waiver. If you decide to appeal our decision first, the 2-year period still begins from the date of this notice or, if applicable, the date you filed the waiver even if Appeals has not yet rendered a final decision on your case. Consideration of your claim by Appeals does not extend the 2-year period to file suit. However, the 2-year-period can be extended if you and the IRS sign a Form 907, Agreement to Extend the Time to Bring Suit.

A refund or credit cannot be made after the end of the 2-year-period (including any extension) unless you file suit during that time. If the end of the 2-year period is approaching and a decision has not been made on your appeal (or if a favorable decision has been made but the refund has not yet been paid), you can file suit, or you can discuss extending this 2-year period with the IRS to protect your ability to receive a refund. If you do not file suit within the 2-year period or sign an agreement with the IRS extending the 2-year period to file suit, you may lose your ability to receive a refund, even if a favorable decision on your appeal has already been made.

You can get the forms or publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676).

0538905825

Aug. 17, 2020 LTR 105C 0

9787 201512 30

Input Op: 0538905825 00001565

ROBERT DECD & SHARLEEN DECD ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711

HOW TO CONTACT US

If you have questions, you can call Customer Service at  
267-941-1000 between 6:00 a.m. and 11:00 p.m. EDT.

If you prefer, you can write to the address at the top of the first  
page of this letter.

When you write, include a copy of this letter, and provide your  
telephone number and the hours we can reach you in the spaces below.

Telephone number ( ) \_\_\_\_\_ Hours \_\_\_\_\_

Keep a copy of this letter for your records.

Thank you for your cooperation.

Sincerely yours,



LuCinda J Comegys  
Field Director, Accounts Management

Enclosures:  
Copy of this letter  
Publication 1  
Envelope



# **Exhibit F**



IRS  
AUSTIN TX 73301-0025

9307110756607024399731

In reply refer to: 0538905825  
Oct. 20, 2020 LTR 105C 0  
[REDACTED] 7989 201612 30  
Input Op: 0538905825 00011779  
BODC: SB

SHARLEEN G ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711-3308

0446

CERTIFIED MAIL

Taxpayer identification number: [REDACTED] 7989  
Kind of tax: Federal Income Tax  
Amount of claim : \$283,347.00

Date of claims received: Mar. 21, 2020  
Tax period : Dec. 31, 2016 Dec. 31, 2015

CISC33QQRQ

Dear Taxpayer:

WE CAN'T ALLOW YOUR CLAIM

We disallowed your claim for credit for the tax period listed at the top of this letter.

WHY WE CAN'T ALLOW YOUR CLAIM

A net operating loss must be filed within 3 years of the due date or extended due date of the loss year return. The loss year return is the return filed for the year the net operating loss was incurred. The due date for your 2016 loss year return was April 15, 2017. In order to be valid, your completed claim needed to be filed by April 15, 2020.

We don't consider an amended return filed, when any information necessary to process the amended return is missing. We previously sent you correspondence requesting information necessary to process your amended return. Since we did not receive the requested information, we are forced to disallow your claim.

WHAT TO DO IF YOU DISAGREE

You can appeal our decision with the Office of Appeals (which is an independent organization within the IRS) if we disallowed your claim because our records show that you filed your claim late. Generally, a claim is late if you filed it after the later of:

- 3 years from the due date of a timely-filed return without an

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Oct. 20, 2020 LTR 105C 0

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Input Op: 0538905825 00011780

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FRESNO CA 93711-3308

- extension
- 3 years from the date we received a late return or a timely filed return with an approved extension
  - 2 years after you paid the tax

In addition, for a claim filed within three years of the date you filed your tax return, we can only refund or credit the amount you paid during the three-year period before the date you file the claim (plus any approved extension of time to file). If you file your claim more than three years after the date you filed your return, we can only credit or refund the amount you paid during the two-year period before the date you file the claim. The Appeals Office can't change the amount of time the law allows you to file a claim for refund or credit.

If you decide to appeal our decision, send us an explanation of why you believe you filed your claim on time; for example, you had an extension of time to file your original tax return. We will consider your explanation before forwarding your request to the Office of Appeals.

Please note, reasonable cause or similar explanations that may provide relief from a penalty for filing a tax return late don't apply to the time limitations for filing a claim set by law. Exceptions that can extend the time to file a claim for refund include:

- Service in a combat zone
- A claim involving an item with a filing period longer than the general three-year period (for example, bad debts and worthless securities)
- Financial disability

Financial disability is the inability to manage financial affairs due to a medically-determined physical or mental impairment that could result in death or that lasts (or can be expected to last) continuously for at least twelve months. A physician's written statement is required as proof of financial disability. Please review Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, for more information about these exceptions.

You have the right to appeal our decision to disallow your claim. You can represent yourself before Appeals or you can have an attorney, certified public accountant, enrolled agent, or any other person authorized to practice before the IRS represent you. To have someone represent you, attach Form 2848, Power of Attorney and Declaration of Representative, (or similar written power of attorney) to your written

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FRESNO CA 93711-3308

statement. If we don't hear from you within 30 days from the date of this letter, we will process your case with the information we have now.

For claims \$25,000 or less, you can request a small dollar case appeal. You must prepare a formal protest for a disallowed claim over \$25,000.

To request a small dollar case appeal:

1. Prepare a written statement that you want to appeal to the Office of Appeals.
2. List the tax periods or years and disallowed items you disagree with and why you don't agree with each item.
3. Provide your name, address, taxpayer identification number, daytime telephone number, and a copy of this letter.
4. Mail your appeal request to the address at the top of the first page of this letter.

To prepare a formal protest:

1. Prepare a written statement that you want to appeal to the Office of Appeals.
2. List the tax periods or years and disallowed items you disagree with and why you don't agree with each item.
3. Provide your name, address, taxpayer identification number, daytime telephone number, and a copy of this letter.
4. Include a detailed statement of facts with names, amounts, locations, etc., to support your reasons for disputing the disallowance.
5. If you know the particular law or authority that supports your position, identify that law or authority by providing a legal citation.
6. Sign the perjury statement below and include it with your written appeal. If your authorized representative prepares the request for an appeal, he or she must sign the statement.
7. Mail your written formal protest to the address at the top of the first page of this letter.

#### STATEMENT BY INDIVIDUALS OR SOLE PROPRIETORS

"Under penalties of perjury, I declare that the facts present on my written appeal are, to the best of my knowledge and belief, true, correct, and complete."

Signature

Date

0538905825

Oct. 20, 2020 LTR 105C 0

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FRESNO CA 93711-3308

\_\_\_\_\_  
Spouse's signature, if a joint return Date

STATEMENT BY INDIVIDUAL AUTHORIZED TO PRACTICE BEFORE THE IRS

"Under penalties of perjury, I declare that I prepared the written statement and accompanying documents. To the best of my knowledge the protest and accompanying documents are true and correct."

\_\_\_\_\_  
Signature of representative

\_\_\_\_\_  
Enrollment number Date

If you don't agree with our decision, you can file suit to recover tax, penalties, or other amounts, with the United States District Court that has jurisdiction or with the United States Court of Federal Claims. These courts are part of the judicial branch of the federal government and have no connection with the IRS.

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HOW TO CONTACT US



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Oct. 20, 2020 LTR 105C 0

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Input Op: 0538905825 00011783

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2509 W SHAW AVE  
FRESNO CA 93711-3308

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Sincerely yours,



LuCinda J Comegys  
Field Director, Accounts Management

Enclosures:  
Copy of this letter  
Publication 1  
Envelope



**IRS**

Department of the Treasury  
Internal Revenue Service

IRS

AUSTIN TX 73301-0025



9307 1107 5660 7024 3997 31

000446.278550.469121.16253 2 SP 0.650 1750



SHARLEEN G ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711-3308

CUT OUT AND RETURN THE VOUCHER IMMEDIATELY BELOW IF YOU ONLY HAVE AN INQUIRY.  
DO NOT USE IF YOU ARE MAKING A PAYMENT.

CUT OUT AND RETURN THE VOUCHER AT THE BOTTOM OF THIS PAGE IF YOU ARE MAKING A PAYMENT,  
EVEN IF YOU ALSO HAVE AN INQUIRY.

The IRS address must appear in the window.

0538905825

BODCD-SB

Use for inquiries only

Letter Number: LTR0105C  
Letter Date : 2020-10-20  
Tax Period : 201612

INTERNAL REVENUE SERVICE  
IRS

AUSTIN TX 73301-0025



\*7989\*

SHARLEEN G ROBSON  
% STEVE A SMITH TTEE  
2509 W SHAW AVE  
FRESNO CA 93711-3308

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The IRS address must appear in the window.

0538905825

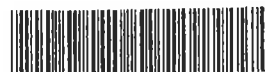
BODCD-SB

Use for payments

Letter Number: LTR0105C  
Letter Date : 2020-10-20  
Tax Period : 201612

INTERNAL REVENUE SERVICE  
IRS

AUSTIN TX 73301-0010



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